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Appeal Brief

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant: Berkel Van, Cornelis Examiner: William L. Boddie
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APPEAL BRIEF

Appellant appeals the status of Claims 1 – 35 as presented in response to the final Office Action dated October 13, 2009, and submits this Appeal Brief.

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1. Real Party in Interest

The real party in interest is Koninklijke Philips Electronics, N. V., the assignee of the entire right, title and interest in and to the subject application by virtue of an assignment recorded with the U.S. Patent and Trademark Office on December 3, 2004 at Reel/Frame 016488/0230.

2. Related Appeals and Interferences

Appellant is not aware of any appeals or interferences related to the present application.

3. Status of Claims

- a) Claims 1 – 35 are pending. Claims 1, 24 and 33 are independent.
- b) Claims 1 – 35 stand rejected and are under appeal.

4. Status of Amendments

An amendment together with an RCE under 37 C.F.R. § 1.114, mailed to the USPTO on February 17, 2009, in response to a final Office Action dated October 16, 2008, was entered. A response was filed on July 16, 2009 to a non-final Office Action dated April 21, 2009. In the July 16, 2009 response, none of the pending claims was amended. No other responses/amendments were filed subsequent to the July 16, 2009 response, nor are any amendments pending. The claims listed in section 8 "Claims Appendix" of this Appeal Brief correspond to the claims submitted in Appellant's response of February 17, 2009.

5. Summary of Claimed Subject Matter¹

The claimed invention, as recited in claim 1, is directed to a user input system, comprising: means for generating an alternating magnetic field (Fig. 3; page 10, lines 20 – 21); a user-holdable device comprising a resonant circuit (Fig. 9; page 20, line 31), a coil for coupling to ground along substantially the length of the user-holdable device (Fig. 9; page 21, lines 1 – 4 and 7 – 9), and a conducting tip (Fig. 9; page 20, line 34), the coil for coupling to ground being coupled to a first side of the resonant circuit (Fig. 9; page 21, lines 5 – 6) and the conducting tip being coupled to a second side of the resonant circuit (Fig. 9; page 21, lines 6 – 7), the resonant circuit being operable to provide an alternating voltage induced from the alternating magnetic field when positioned in the vicinity of the means for generating an alternating magnetic field (Fig. 3; page 10, lines 23 – 26); and means for sensing an output provided at the conducting tip due to the alternating voltage source when the conducting tip is in the vicinity of the means for sensing an output (Fig. 3; page 11, lines 2 – 5).

The claimed invention, as recited in claim 24, is directed to a user-holdable device for a user to provide input to a user input system, comprising: a resonant circuit

¹ *It should be explicitly noted that it is not the Appellant's intention that the currently claimed or described embodiments be limited to operation within the illustrative embodiments described below beyond what is required by the claim language. Further description of the illustrative embodiments are provided indicating portions of the claims which cover the illustrative embodiments merely for compliance with requirements of this appeal without intending to read any further interpreted limitations into the claims as presented.*

(Fig. 9; page 20, line 31); a coil for coupling to ground along substantially the length of the user-holdable device (Fig. 9; page 21, lines 1 – 4 and 7 – 9); and a conducting tip (Fig. 9; page 20, line 34); the coil for coupling to ground being coupled to a first side of the resonant circuit (Fig. 9; page 21, lines 5 – 6) and the conducting tip being coupled to a second side of the resonant circuit (Fig. 9; page 21, lines 6 – 7), the resonant circuit being operable to provide an alternating voltage induced from an alternating magnetic field (page 10, lines 23 – 26).

The claimed invention, as recited in claim 33, is directed to a method of sensing user input, comprising: generating an alternating magnetic field that passes in to a user-held device (Fig. 3; page 10, lines 20 – 21); inducing an alternating voltage in the user-held object from the alternating magnetic field (Fig. 3; page 10, lines 23 – 26); providing coupling to ground by a coil extending substantially along the length of the user-held device (Fig. 9; page 21, lines 1 – 4 and 7 – 9); providing an output from the alternating voltage at a conducting tip of the user-held device (Fig. 9; page 21, lines 6 – 7); and sensing, by time-multiplexing (page 18, lines 25 – 27), the output when the user-held device is positioned or moved such that the conducting tip is in the vicinity of a sensing means, or when a user's finger is positioned or moved such that the user's finger is in the vicinity of the sensing means (page 16, lines 9 – 15); wherein said time-multiplexing provides a means for distinguishing between sensing of the user's finger and sensing of the user-held device (page 18, line 28 – page 19, line 3).

6. Grounds of Rejection to be Reviewed on Appeal

A. Whether claims 1, 2, 4, 9 – 15, 20 – 22 and 24 – 31 are properly rejected under 35 U.S.C. §103(a) over Katabami (US 5,528,002) in view of Kable (US 4,695,680) and further in view of Makinwa (US 5,889,237).

B. Whether claims 33 – 35 are properly rejected under 35 U.S.C. §103(a) over Katabami in view of Stein et al. (US 5,365,461), hereinafter Stein, and further in view of Kable and Makinwa.

C. Whether claims 5 and 6 are properly rejected under 35 U.S.C. §103(a) over Katabami in view of Kable, and further in view of Makinwa and Yamanami et al. (US 4,902,858).

D. Whether claims 7, 8, 19 and 32 are properly rejected under 35 U.S.C. §103(a) over Katabami in view of Kable, and further in view of Makinwa and Ely et al. (US 6,667,740).

E. Whether claims 3, 16 and 17 are properly rejected under 35 U.S.C. §103(a) over Katabami in view of Kable, and further in view of Makinwa and Stein.

F. Whether claims 16 and 18 are properly rejected under 35 U.S.C. §103(a) over Katabami in view of Kable, and further in view of Makinwa and Teterwak (US 5,777,898).

G. Whether claim 23 is properly rejected under 35 U.S.C. §103(a) over Katabami in view of Kable, and further in view of Makinwa and Colgan et al. (US 6,204,897).

7. **Argument**

Appellant respectfully traverses the rejections in accordance with the detailed arguments set forth below.

A. Claims 1, 2, 4, 9 – 15, 20 – 22 and 24 – 31 are not properly rejected under 35 U.S.C. §103(a) over Katabami in view of Kable and further in view of Makinwa.

It is respectfully submitted that the Examiner failed to establish a prima facie case of obviousness, because as discussed below, a suggestion of all limitations in Appellant's claims is lacking in the combination of Katabami, Kable and Makinwa.

1. Claim 1

For example, claim 1, in part, requires:

"a coil for coupling to ground along substantially the length of the user-holdable device."

In the Office Action, pages 5, the Examiner conceded that neither Katabami nor Kable disclose that the means for coupling to ground is a coil. However, the Examiner cited Makinwa, alleging that Makinwa teaches a coil for coupling to ground. Appellant respectfully disagrees.

Appellant's claim 1 includes the element: *a coil for coupling to ground along substantially the length of the user-holdable device*. That is, the function of Appellant's coil is to provide coupling to ground, and the structural limitation is clearly implied by the

coil coupling to ground function and the recitation that it is along substantially the length of the user-holdable device. Appellant submits that the mere fact that an object is coupled to ground does not necessarily mean that the object itself provides such coupling function or possesses such structural limitation.

Minkinwa, column 3, lines 22 – 27, recites:

“FIG. 2 shows diagrammatically some components of the stylus 104. The stylus comprises a coil 202 which is wound about a core 204. The coil 202 is connected to an oscillator circuit 206 which is accommodated on a support 208, together with other electronics, and transmits a stylus signal when the stylus is in an operational state.” (Emphasis added)

Furthermore, Minkinwa, column 3, lines 38 – 43, recites:

“In the embodiment shown in FIG. 3, the activation signal transmitted by the display screen is received by the coil 202 via capacitive coupling. Because one side 302 of the coil is capacitively coupled to ground, for example via a hand of the user, an electric signal arises at the side 304 of the coil.” (Emphasis added)

For the above passages, it is clear that the function of Minkinwa’s coil 202 is for transmitting the stylus signal, and receiving an activation signal via capacitive coupling. Thus the structural limitation of coil 202 is not that of the claimed coil for coupling to ground. There is no indication in Minkinwa that the coil 202 provides the function of coupling to ground. Although one side 302 of the coil 202 is capacitively couple to ground, it does not follow that the coil is for coupling to ground. In fact, the above

passage clearly suggests that some coupling mechanism (e.g. via a hand of the user) at the side 302 is provided so that the side 302 is coupled to ground. Therefore, the coil 202 does not provide the function of coupling to ground.

In the Office Action, page 2, Response to Arguments section, the Examiner alleged that the terminal side 302 in Fig. 3 of Makinwa is a part of the coil 202. Appellant submits that a reasonable skilled person would not consider the terminal side is part of a coil because a coil has a well-defined shape and structure, and thus exhibits certain known electromagnetic characteristics; while the terminal sides, as clearly shown in Fig. 3, provide electric connections so that a current can go through the coil. A skilled person reading the sentence "*Because one side 302 of the coil is capacitively coupled to ground, for example via a hand of the user, an electric signal arises at the side 304 of the coil*" would understand that identifying the side 302 and side 304 of the coil does not mean that these sides are considered part of the coil, rather such designations are needed for referencing and distinguishing the terminal ends over which the electric signal generated from the coil 202 with respect to ground is defined. There is no structure what so ever in sides 302 or 304 that would lead a skilled person to consider these terminal ends are part of the coil 202. Furthermore, as discussed earlier, the sentence clearly suggests the coupling mechanism (*for example via a hand of the user*) does not come from the coil 202.

Therefore, Minkawa fails to teach or suggest the claimed feature: *a coil for coupling to ground*.

In addition, the claimed invention also requires that the coil for coupling is *along*

substantially the length of the user-holdable device.

Appellant submits that, as clearly shown in Fig. 2, the coil 202 of Minkawa does not extend along substantially the length of the user-holdable device. In the Office Action, page 4, the Examiner also conceded that Katabami does not expressly disclose that the means for coupling to ground extend along substantially the length of the user-holdable device nor that the means are a coil. However, the Examiner alleged that the combination considered is to first extend the coupling means of Katabami the length of the device as taught by Kable; and that thereafter it is seen as obvious to replace the coupling means (which extend along the length of the device) of Katabami and Kable with the coil of Makinwa. Appellant respectfully disagrees that it is obvious to combine Katabami, Kable and Makinwa to arrive at the claimed invention.

Kable discloses a wall 12, which is an outwardly disposed and electrically conductive wall of the stylus 10 (Fig. 1, column 4, lines 11 – 14 and column 5, lines 32 – 39). However, the wall 12 in Kable is clearly not a coil. Applicant submits that the wall 12 in Kable provides a structure forming the body of stylus 10 (column 5, lines 39 – 45), and that a coil cannot suitably be used to replace the wall. In other words, if a coil was used, Kable's stylus 10 would lose an important structural feature – a wall forming the body of the stylus.

According to MPEP 2143.01, section V: If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

A stylus without a wall forming the body is clearly not satisfactory for its intended purpose, i.e. a pen-like writing instrument, having a body for hand-holding. This is because the coil does not provide enough surface structure or rigidity for a hand to properly hold on to the stylus. Replacing the wall forming the body of the stylus by a coil is clearly more than a routine design choice of the stylus body. Therefore, contrary to the assertion made by the Examiner, a skilled person would not find it obvious to replace the coupling means of Katabami and Kable with the coil of Makinwa.

In view of at least the foregoing, Appellant submits that claim 1 is patentable over Katabami, Kable and Makinwa, and the rejection of claim 1 should be reversed.

2. Claims 24

Similarly, independent claim 24, in part, requires:

"a coil for coupling to ground along substantially the length of the user-holdable device."

Although claim 24 is different from claim 1, claim 24 contains many similar distinguishing features as in claim 1, and thus the relative argument used above for claim 1 should be applied to claim 24. Therefore, claim 24 is patentable over Katabami, Kable and Makinwa, and the rejection of claim 24 should be reversed.

3. Claims 2, 4, 9 – 15, 20 – 22 and 25 – 31

Claims 2, 4, 9 – 15, 20 – 22 and 25 – 31 respectively depend from and inherit all the respective features of either claims 1 or 24. Thus, claims 2, 4, 9 – 15, 20 – 22 and 25 – 31 are patentable for at least the reasons discussed above with respect to each

independent claim from which they depend, with each dependent claim containing further distinguishing features. Therefore, the rejection of claims 2, 4, 9 – 15, 20 – 22 and 25 – 31 should be reversed.

B. Claims 33 – 35 are not properly rejected under 35 U.S.C. §103(a) over Katabami in view of Stein, and further in view of Kable and Makinwa.

1. Claim 33

Independent claim 33, in part, requires:

“providing coupling to ground by a coil extending substantially along the length of the user-held device.”

Appellant essentially repeats the above arguments for claims 1 and 24 and applies them to claim 33, pointing out why Katabami, Kable and Makinwa fail to disclose the claimed feature: providing coupling to ground by a coil extending substantially along the length of the user-held device. Furthermore, Appellant submits that Stein does not in any way cure the deficiencies present in Katabami, Kable and Makinwa as discussed above. Therefore, claim 33 is patentable over Katabami, Kable, Makinwa and Stein, either singly or in combination, and the rejection of claim 33 should be reversed.

2. Claims 34 and 35

Claims 34 and 35 depend from and inherit all the features of claim 33. Thus, claims 34 and 35 are patentable for at least the reasons discussed above with respect to claim 33, with each dependent claim containing further distinguishing features. Therefore, the rejection of claims 34 and 35 should be reversed.

C. Claims 5 and 6 are not properly rejected under 35 U.S.C. §103(a) over

Katabami in view of Kable, and further in view of Makinwa and Yamanami.

Appellant submits that Yamanami does not in any way cure the above deficiencies present in Katabami, Kable and Makinwa with respect to claim 1. Claims 34 and 35 depend from and inherit all the features of claim 1. Thus, claims 5 and 6 are patentable for at least the reasons discussed above with respect to claim 1, with each dependent claim containing further distinguishing features. Therefore, the rejection of claims 5 and 6 should be reversed.

D. Claims 7, 8, 19 and 32 are not properly rejected under 35 U.S.C.

§103(a) over Katabami in view of Kable, and further in view of Makinwa and Ely.

Appellant submits that Ely does not in any way cure the above deficiencies present in Katabami, Kable and Makinwa with respect to claims 1 and 24. Claims 7, 8, 19 and 32 respectively depend from and inherit all the features of either of claims 1 or 24. Thus, claims 7, 8, 19 and 32 are patentable for at least the reasons discussed above with respect to claims 1 or 24, with each dependent claim containing further distinguishing features. Therefore, the rejection of claims 7, 8, 19 and 32 should be reversed.

E. Claims 3, 16 and 17 are not properly rejected under 35 U.S.C. §103(a)

over Katabami in view of Kable, and further in view of Makinwa and Stein.

Appellant submits that Stein does not in any way cure the above deficiencies present in Katabami, Kable and Makinwa with respect to claim 1. Claims 3, 16 and 17 depend from and inherit all the features of claim 1. Thus, claims 3, 16 and 17 are

patentable for at least the reasons discussed above with respect to claim 1, with each dependent claim containing further distinguishing features. Therefore, the rejection of claims 3, 16 and 17 should be reversed.

F. Claims 16 and 18 are not properly rejected under 35 U.S.C. §103(a) over Katabami in view of Kable, and further in view of Makinwa and Teterwak.

Appellant submits that Teterwak does not in any way cure the above deficiencies present in Katabami, Kable and Makinwa with respect to claim 1. Claims 16 and 18 depend from and inherit all the features of claim 1. Thus, claims 16 and 18 are patentable for at least the reasons discussed above with respect to claim 1, with each dependent claim containing further distinguishing features. Therefore, the rejection of claims 16 and 18 should be reversed.

G. Claim 23 is not properly rejected under 35 U.S.C. §103(a) over Katabami in view of Kable, and further in view of Makinwa and Colgan.

Appellant submits that Colgan does not in any way cure the above deficiencies present in Katabami, Kable and Makinwa with respect to claim 1. Claim 23 depends from and inherits all the features of claim 1. Thus, claim 23 is patentable for at least the reasons discussed above with respect to claim 1, with further distinguishing features. Therefore, the rejection of claim 23 should be reversed.

Conclusion

As discussed above, the cited references, either taken singly or in combination, fail to teach or suggest all of the claim limitations of the pending claims. Accordingly, it is respectfully requested that the Board reverse the rejection of claims 1 – 35 under 35 U.S.C. §103(a).

Respectfully submitted,

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8. CLAIMS APPENDIX

1. (Previously Presented) A user input system, comprising:
 - means for generating an alternating magnetic field;
 - a user-holdable device comprising
 - a resonant circuit,
 - a coil for coupling to ground along substantially the length of the user-holdable device, and
 - a conducting tip,
 - the coil for coupling to ground being coupled to a first side of the resonant circuit and the conducting tip being coupled to a second side of the resonant circuit, the resonant circuit being operable to provide an alternating voltage induced from the alternating magnetic field when positioned in the vicinity of the means for generating an alternating magnetic field; and
 - means for sensing an output provided at the conducting tip due to the alternating voltage source when the conducting tip is in the vicinity of the means for sensing an output.

2. (Previously Presented) A system according to claim 1, wherein the means for sensing an output provided by the conducting tip comprises means for determining the strength of the output as sensed at plural locations and means for comparing the plural sensed output strengths to determine a position of the conducting tip relative to the plural locations.

3. (Previously Presented) A system according to claim 1, wherein the sensing means comprises a resistive sheet and current measuring means arranged to measure a capacitive current flowing from the conducting tip to the resistive sheet.

4. (Previously Presented) A system according to claim 1, wherein the sensing means comprises an electric field sensing reception electrode and current sensing circuitry for determining a current excited in the electric field sensing reception electrode by an electric field generated by the conducting tip.

5. (Previously Presented) A system according to claim 4, wherein the sensing means is arranged to substantially filter out currents produced in the electric field sensing reception electrode by electric fields generated by the means for generating an alternating magnetic field.

6. (Previously Presented) A system according to claim 5, wherein the filtering out is performed using a difference in phase between the electric field generated by the means for generating an alternating magnetic field and the electric field generated by the conducting tip.

7. (Previously Presented) A system according to claim 1, wherein shielding is provided to substantially block any electric field generated by the means for generating

an alternating magnetic field and substantially allow to pass the magnetic field generated by the means for generating an alternating magnetic field.

8. (Previously Presented) A system according to claim 4, arranged to determine the distance of the conducting tip from the plane of the electric field reception electrode, compare the determined distance to a predetermined threshold value, and if the determined value is less than or equal to the threshold then treat the conducting tip position as input and if the determined value is greater than the threshold then not treat the conducting tip position as input.

9. (Previously Presented) A system according to claim 1, wherein the user-holdable device is for use as a pen or stylus.

10. (Previously Presented) A system according to claim 9, wherein the conducting tip is adapted to provide a writing feel to the user.

11. (Previously Presented) A system according to claim 1, wherein the user-holdable device comprises an external housing by which the user is to hold the user-holdable device, and wherein the coil for coupling to ground is such that the coupling to ground is made via the user's hand when the user is holding the user-holdable device.

12. (Previously Presented) A system according to claim 11, wherein the coil for coupling to ground is further arranged to reduce shielding of the resonant circuit from the magnetic field generated by the means for generating an alternating magnetic field.

13. (Previously Presented) A system according to claim 11, wherein the housing is made of a dielectric material such that the housing represents the dielectric of a capacitor formed between the coil for coupling to ground and the user's hand.

14. (Previously Presented) A system according to claim 13, wherein the resonant circuit is positioned in the user-holdable device at a location away from the coil for coupling to ground.

15. (Previously Presented) A system according to claim 12, wherein the coil for coupling to ground is further arranged to couple the resonant circuit to the user's hand whilst substantially allowing the magnetic field generated by the means for generating an alternating magnetic field to reach the resonant circuit.

16. (Previously Presented) A system according to claim 1, further comprising means for sensing a user's finger.

17. (Previously Presented) A system according to claim 16, wherein the sensing means comprises a resistive sheet and current measuring means arranged to measure a capacitive current flowing from the conducting tip to the resistive sheet, and wherein

the means for sensing the user's finger comprises the resistive sheet, the current measuring means, and means for distinguishing between sensing of the user's finger and sensing of the user-holdable device.

18. (Previously Presented) A system according to claim 16, wherein the sensing means comprises an electric field sensing reception electrode and current sensing circuitry for determining a current excited in the electric field sensing reception electrode by an electric field generated by the conducting tip, and wherein the means for sensing a user's finger comprises an electric field sensing transmission electrode, the electric field sensing reception electrode, and circuitry for sensing changes caused by the user's finger to a current excited in the electric field sensing reception electrode by an electric field generated by the electric field sensing transmission electrode.

19. (Previously Presented) A system according to claim 1, further comprising one or more further user-holdable devices, respective user-holdable devices having different tuned frequencies.

20. (Previously Presented) A display device comprising a user input system according to claim 1.

21. (Previously Presented) A display device according to claim 20, wherein the sensing means is arranged to sense the output provided by the conducting tip in an area corresponding to a display area of the display device.

22. (Previously Presented) A display device according to claim 20, wherein the display device is an active matrix liquid crystal display device.

23. (Previously Presented) A display device according to claim 20, wherein the sensing means comprises a resistive sheet and current measuring means arranged to measure a capacitive current flowing from the conducting tip to the resistive sheet, and wherein the resistive sheet is provided by a common electrode of the display device.

24. (Previously Presented) A user-holdable device for a user to provide input to a user input system, comprising:

a resonant circuit;

a coil for coupling to ground along substantially the length of the user-holdable device; and

a conducting tip;

the coil for coupling to ground being coupled to a first side of the resonant circuit and the conducting tip being coupled to a second side of the resonant circuit, the resonant circuit being operable to provide an alternating voltage induced from an alternating magnetic field.

25. (Original) A device according to claim 24, for use as a pen or stylus.

26. (Previously Presented) A device according to claim 25, wherein the conducting tip is adapted to provide a writing feel to the user.
27. (Previously Presented) A device according to claim 24, comprising an external housing by which the user is to hold the user-holdable device, and wherein the coil for coupling to ground is such that the coupling to ground is made via the user's hand when the user is holding the user-holdable device.
28. (Previously Presented) A device according to claim 27, wherein the coil for coupling to ground is further arranged to reduce shielding of the resonant circuit from the magnetic field generated by the means for generating an alternating magnetic field.
29. (Previously Presented) A device according to claim 27, wherein the housing is made of a dielectric material such that the housing represents the dielectric of a capacitor formed between the coil for coupling to ground and the user's hand.
30. (Previously Presented) A device according to claim 29, wherein the resonant circuit is positioned in the user-holdable device at a location away from the coil for coupling to ground.
31. (Previously Presented) A device according to claim 28, wherein the coil for coupling to ground is further arranged to couple the resonant circuit to the user's hand whilst substantially allowing magnetic fields to reach the resonant circuit.

32. (Previously Presented) A set of user-holdable devices, comprising a plurality of user-holdable devices according to claim 24, wherein each user-holdable device has a different tuned frequency.

33. (Previously Presented) A method of sensing user input, comprising:
generating an alternating magnetic field that passes in to a user-held device;
inducing an alternating voltage in the user-held object from the alternating magnetic field;
providing coupling to ground by a coil extending substantially along the length of the user-held device;
providing an output from the alternating voltage at a conducting tip of the user-held device; and
sensing, by time-multiplexing, the output when the user-held device is positioned or moved such that the conducting tip is in the vicinity of a sensing means, or when a user's finger is positioned or moved such that the user's finger is in the vicinity of the sensing means;
wherein said time-multiplexing provides a means for distinguishing between sensing of the user's finger and sensing of the user-held device.

34. (Previously Presented) A method according to claim 33, wherein the sensing means comprises a resistive sheet and current measuring means; and sensing the

output comprises using the current measuring means to measure a capacitive current flowing from the conducting tip to the resistive sheet.

35. (Previously Presented) A method according to claim 33, wherein the sensing means comprises an electric field sensing reception electrode and current sensing means; and sensing the output comprises using the current sensing means to determine a current excited in the electric field sensing reception electrode by an electric field generated by the conducting tip.

9. RELATED EVIDENCE APPENDIX

No evidence has been submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title nor any other evidence entered by the examiner and relied upon by Appellant in the appeal.

10. RELATED PROCEEDINGS APPENDIX

Appellant is not aware of any appeals or interferences related to the present application.